MINUTE ENTRY
GOODWIN, J.
MAY 21, 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

In re: C.R. Bard, Inc., Pelvic Repair System Products Liability Litigation — **MDL No. 2187**

In re: American Medical Systems, Inc., Pelvic Repair System Products Liability Litigation — **MDL No. 2325**

In re: Boston Scientific Corporation Pelvic Repair System Products Liability Litigation — **MDL No. 2326**

In re: Ethicon Inc., Pelvic Repair System Products Liability Litigation — **MDL No. 2327**

In re: Coloplast Corp. Pelvic Support Systems Products Liability Litigation — **MDL No. 2387**

THIS DOCUMENT RELATES TO ALL CASES

On April 18, 2013, the court conducted a status conference in the above-referenced MDLs. The following is a brief summary of the status conference:

1. General & Specific MDL Issues – Judge Goodwin

a. Tolling agreement

Mr. Garrard reported that the parties were in negotiations on the tolling agreement and had made good progress. Judge Goodwin indicated that the tolling agreement was very important to him and that he was grateful for any agreement reached by the parties.

b. Agenda Issues for MDL 2325 (American Medical Systems, Inc.)

1. Status of Plaintiff Profile Forms

Ms. Binis reported that AMS was attempting to deal with the Plaintiff Profile Form ("PPF") issue in an organized way. She reported 175 missing PPFs. She informed the plaintiffs' steering committee and asked that the PPFs be filed in 30 days. She reported 667 PPFs with "material deficiencies," such as missing authorization forms. Ms. Binis asked that these deficiencies be cured in 30 days as well.

Judge Goodwin directed liaison counsel to "solve this problem."

c. Agenda Issues for MDL 2327 (Ethicon, Inc.)

1. Johnson & Johnson/Ethicon Stipulation

Ms. Jones reported that the parties had agreed on a stipulation, but were tinkering with language therein.

2. Discovery pool status

Judge Goodwin reiterated his position on the cases to be chosen for bellwether trials. Docket control orders for the next round of trials will be submitted within 30 days.

d. Agenda Issues for MDL 2387 (Coloplast)

1. Report on case assessment program

Mr. Clark reported that plaintiffs had been working on the case assessment program with Coloplast for about six months and had made good progress. Counsel for Coloplast has been to Europe to speak with the principles in Coloplast. Plaintiffs are very optimistic and at the next status conference should have results to report or be prepared to begin the discussions about another path.

Mr. Kreps reported on behalf of Coloplast that he hoped by the next status conference to have something more concrete to report.

d. **Endo Entities**

Judge Goodwin noted that the Clerk's office continued to dismiss the Endo entities and that soon, a new short form complaint would be entered omitting them. In the meantime, he asked that plaintiffs not name the Endo entities on short form complaints.

2. General & Specific MDL Issues – Judge Eifert

a. Cross utilization of documents produced in various MDLs

Judge Eifert asked that the defendants file a position statement by April 23, 2013. Thereafter, plaintiffs could have 5 business days to respond. AMS may respond to plaintiffs if they wish, since AMS and plaintiffs had previously filed simultaneous briefs on the issue.

b. Agenda Issues for MDL 2325 (American Medical Systems, Inc.)

1. Production issue motion

The parties addressed document production issues. Judge Eifert ordered that the parties' technology personnel meet and confer on these issues with a vendor representative present within 14 days. After the meeting, if plaintiffs still believe that there was deliberate intent on the part of AMS to delay the production, then Judge Eifert will schedule an evidentiary hearing. Judge Eifert will consider an award of sanctions, but she will not order that a POP case be tried. Judge Eifert denied the motion for production of AMS's database. Any motion for sanctions is due two to three weeks after the meeting.

Ms. Kwon indicated that a deduplication log would be served this week.

Ms. Fitzpatrick raised the issue of production of custodial files for former employees. Ms. Kwon indicated that AMS continues to look for these files, but they have not been located. Judge Eifert directed that AMS must report that either the files exist or they do not, as plaintiffs have a right to these files. If they do not exist, AMS must produce an Affidavit.

2. Product exemplars

Ms. Binis reported the parties had worked out this issue.

3. Outside U.S. production report

Ms. Binis reported AMS was on schedule for the remaining outside the U.S. production.

c. Agenda Issues for MDL 2327 (Ethicon, Inc.)

1. Preservation of documents and tangible matters order

Mr. Aylstock reported that the parties had reached agreement on a preservation order and would submit it to the court.

2. Deposition scheduling and coordination with state court proceedings

Mr. Aylstock explained that because there are 5 different SUI products and 3 POP products, the parties were very busy scheduling depositions.

Ms. Jones noted that plaintiffs had asked for Rule 30(b)(6) depositions involving a number of different witnesses together with about 69 fact witnesses. Defendants are working with plaintiffs on scheduling and hope to convince plaintiffs that some are unnecessary. Ms. Jones stated that while the parties were not currently at impasse on this, they may be coming to Judge Eifert in the future on this issue.

d. Agenda Issues for MDL 2326 (Boston Scientific Corporation)

1. Report on discovery progress

Mr. Adams stated that he had no discovery issues to report.

e. Agenda Issues for MDL 2187 (C. R. Bard, Inc.)

Judge Goodwin and Judge Eifert met in advance with the parties in Bard.

f. Next Status Conference – May 23, 2013 at 10:00 a.m.

JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE